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No. 82-71

In The

SUPREME COURT OF THE UNITED STATES

October Term, 1982

HERBERT A. COCHRANE, Pro Se. Petitioner.

v.

KARL N. MARX, Business Mgr., Greystone Park, N.J.

RICHARD E. WINANS, Former Personnel Manager at Greystone Park, N.J.

MORRIS C. POYE, III, Former Hospital Administrator at Greystone Park, N.J.

WILLIAM F. HYLAND, Former New Jersey State Attorney General, Trenton, New Jersey.

JOHN J. DEGNAN, Former New Jersey State Attorney General, Trenton, New Jersey.

Respondents.

PETITION FOR WRIT OF CERTIORARI TO THE

UNITED STATES COURT OF APPEALS

FOR THE THIRD CIRCUIT

Herbert A. Cochrane, Pro Se. Petitioner.
P.O. Box #71 - G
Greystone Park
N.J. 07950 - 9071

QUESTIONS PRESENTED FOR REVIEW

1. Whether such an indictment type of Civil Action Complaint, with the obviously implied, but unexpressed following codes can properly be so haphazardly and recklessly dismissed; without even any oral arguments being presented.

   28 U.S.C.A. Paragraph 1291.
   " " " 1331.
   " " " 1332 (a) (1) and (c).
   " " " 1441 (b).
   " " " 1443 (1) and (2).
   " " " 1446 (c).

2. Whether Ex Parte Quirin, 317 U.S. 1 (1942) can be applied in the instant case, which proceeding indicates the importance of PROPRIA PERSONA, and so-called international common law.

3. Whether portions of the preponderance of evidence can be entered on the Docket Sheet, with the Complaint; so that the Courts below can

see that they were presented for the Courts inspection.

4. Whether the United States Marshall's office can present only a token effort to serve Complaints, which effort can deceive no one; yet, have the Courts below endorse such activity as proper performance of their duties and responsibilities.

NOTE

See pages 10 to 16 for particulars.

No. _____

In The

SUPREME COURT OF THE UNITED STATES

_____

October Term, 1982

_____

HERBERT A. COCHRANE, Pro Se. Petitioner.

v.

KARL N. MARX, Business Manager for Greystone Park Psychiatric Hospital, at Greystone Park, New Jersey 07950

RICHARD E. WINANS, Former Personnel Manager for Greystone Park Psychiatric Hospital, at Greystone Park, New Jersey 07950.

MORRIS C. FOYE, III; Former Hospital Administrator, or Chief Executive Officer for

Greystone Park Psychiatric
Hospital, at Greystone Park,
New Jersey 07950.

WILLIAM F. HYLAND, Former New Jersey State Attorney
General, at The State House Annex,
Trenton, New Jersey 08625.

JOHN J. DEGNAN, Former New Jersey State Attorney
General, at The State House Annex,
Trenton, New Jersey 08625.

Respondents.

District Court Designated Counsel For Respondents:

Mr. Irwin I. Kimmelman
New Jersey State Attorney General
State House Annex
T R E N T O N
N.J. 08625. (609) - 292 - 4919.

J. Michael Blake, Deputy Attorney General, is representing the New Jersey Attorney General, Trenton, N.J.

PETITION FOR A WRIT OF CERTIORARI TO THE

UNITED STATES COURT OF APPEALS

FOR THE THIRD CIRCUIT

Petitioner, hereby petitions the Supreme Court of the United States so that a writ of certiorari issue to review the judgment in a civil action complaint, last filed with the Third Circuit Court of Appeals, Philadelphia, Pennsylvania.

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OPINIONS BELOW

To the best knowledge of this Petitioner, there is absolutely no reporting of this case; either in the New Jersey State texts, or any of the Federal texts. On Appendix pages 1a and 2a, the opinions below are indexed.

The reason for this silence is transparently clear, when one reads the Complaint itself, on page 3a, etc. The Report and Recommendation is also evident as a transparent pretext to dismiss any judicial proceeding against such highest level governmental frauds. No oral arguments were ever permitted.

One of the self-impeaching complaints against Petitioner charges that he is guilty of threatening the life of a Mr. Knowels. This mental and physical wreck, since deceased, was also a Greystone Park employee, as is this Petitioner.

UNITED STATES SUPREME COURT JURISDICTION

1. Jurisdiction for the above-entitled Court is invoked under 28 U.S.C.A. paragraph 1254 (1).

2. Also, Ex Parte Quirin, 317 U.S.1 (1942) appears to come within the above-entitled Court's interest, under 28 U.S.C.A. paragraph 1254 (3).

3. Also, 28 U.S.C.A. paragraph 1257 (3) appears to come within the interest of the above-entitled Court's jurisdiction in 28 U.S.C.A. paragraph 1443; whereby, New Jersey State Courts are being charged with criminal abuse of Summary Process. See pages 3a, 14a, and 37a.

STATEMENT OF THE CASE

The gravamen of the case consists of numerous and self-impeaching personal complaints, signed by other New Jersey State employees, living in the Greystone Park employee dormitories. Their personal complaints are mainly centered about their chasing after Petitioner; namely, in and out of the wash rooms there. The last personal complaint charges that this Petitioner; " - - - threatened Knowles' life in the men's room of the Hill Residence on April 9, 1977". This is from page 8 of Defendants-Appellees Brief for the Third C.C.A. Complainant Knowles expired soon after from the effects of D.T's and the like. His so-called witness was suffering from other diseases when he signed his statement; although, one would also assume that he might have been suffering from the D.T.'s also.

The complainants there are affronted, infuriated, and outraged that this Petitioner is so forward as to leave the Greystone Park wash-rooms,

and every other place where they chase after him. Petitioner is so inclined as to prefer the company of girls or women, and not one of those.

What copies of the written instruments that were obtainable disclose the full spectrum of their vented spleen; subsequent to chasing after Petitioner in said wash-rooms and elsewhere.

The Greystone Park managers eagerly welcomed, nurtured, and encouraged such depraved writings. The precise reason for this is found in Count Three of the Complaint, page 11a; where the preponderance of evidence in fraudulent decision making by managers and directors is set forth in indictment type form.

When Petitioner brought a personal and vicarious liability suit against defendant Marx on June 14, 1976; defendant Ryland, and later defendant Degnan, in their capacity as New Jersey State Attorneys General, supplied free counsel and law assistance to defendant Marx. This collective, or State liability was upheld by the courts below. De-

fendants Winans and Foye, then contributed their decision making reports about Petitioner, and these decision making reports were nothing more than decision making of fraudulent, self-impeaching, and libelous statements; which they filed in their capacities as executives of the New Jersey Department of Human Services. This activity, then led to four additional defendants in the litigation.

The New Jersey State Courts were so prejudiced against a Pro Se prosecution that they even refused to honor their own court rules, 4:23-2 and 4:46-2. A Summary Judgment was granted to defendant Marx, which was no more than criminal abuse of Summary Process, in a discriminatory proceeding.

Particularization of Complaint's expression, page 3a, on "criminal abuse of judicial process in New Jersey State Courts, being violations of both State and Federal law"; was accomplished by submitting to the Newark, N.J. District Court, the form "Allegation of Jurisdiction". This procedure is in full accordance with Conley v. Gibson, 355 U.S.

41 (1957), bottom of page 47.

On March 6, 1980, Petitioner filed a Civil Action against Defendants in Newark, N.J. District Court; under personal and vicarious liability, excluding collective, page 3a. Ex Parte Quirin, 317 U.S.1(1942) was one of the citations presented by Petitioner for a Motion to Strike collective liability, in the form of State Attorney General defense of Defendants.

In the Complaint itself, 28 U.S.C.A. paragraphs 1441 and 1443 obviously applied; however, their expression was hardly mandatory, or justifying dismissal.

The necessary preponderance of evidence was partly filed in four maroon portfolios, titled PRELIMINARY EXHIBITS. Also filed, were voluminous citations and acknowledged authorities, in the law and industrial fields. The PRELIMINARY EXHIBITS were not even entered on the Docket Sheets; therefore, the District Court could not inspect them, since they were suppressed. The Codes that are also plainly ev-

ident, but not expressed are: 28 U.S.C.A. 1331; 1332 (a) (1) and (c); and 1446 (c).

The Court should know that complainant Knowels was evidently an archery enthusiast. On one occassion, after attesting to his archery skill in the Hill Dormitory hallway, he knocked on this Petitioner's door and informed him that he was to be the next target.

Individuals who are in such a condition, are usually humored; so Petitioner just smiled and closed the door.

Complainant Knowles then staggered down the main stair case, in his labored efforts to reach the telephone in the main hall-way.

Not being capable of reading the dial letters, or accurately turning the rotary selector to contact the Institutional Guards, he finally made contact with the Institutional Telephone operator so that she could summon the Institutional Guards for him.

Upon arriving at the Hill Residence, they

obviously couldn't understand his complaint, and when they asked this Petitioner, he directed them to a witness of the archery performance.

Complainant Lassiter was arrested by a Beat Man on the streets of the nearby town of Morris Plains. He was charged with carrying in his belt, an unlicensed and loaded .38 cal. S. & W. snub-nosed revolver. It was summer time, and the Beat Man professionally noticed the bulge at the belt line.

Complainant Luvine most assuredly hid a clasp-knife behind his back when he exclaimed; "I'll tear your head off!"

The Greystone Park institutional publication, The Bulletin, dated 8/1/75, page 2, has an entry about the following. All firearms (or any item which could be construed as a weapon) must be stored with the Institutional Guards, when not in use by the owner.

The Newark, N.J. District Court immediately dismissed the Complaint without any oral argument. See pages 15a and 21a. The Narrative Statement was

simply ignored, as were Petitioner's other moving papers.

Petitioner then filed an Appeal with the Third C.C.A.

To demonstrate more clearly that no industrial just cause or judicial due process was demonstrated in any of the proceedings below; Petitioner presented the initial C.C.A. Brief, Argument Section, outlined in detail according to 5 U.S.C.A. paragraph 706. This presentation then couched the facts of the matter in methods and procedures that were familiar to the court.

The judgment of the Newark District Court was affirmed by the Third C.C.A., and the PRELIMINARY EXHIBITS were declaired as moot. See page 23a.

The Rehearing Petition was denied. See page 25a.

How Federal Questions are Presented

1. Petitioner was confident that paragraph 15 of the Complaint, page 12a, adequately set forth the jurisdiction for District Court, and it is obviously implied throughout the Complaint. All of the non-particularized jurisdiction, as mentioned in the opening paragraph of the Complaint, page 3a, is particularized in the Allegation of Jurisdiction. This is in accordance with Conley v. Gibson, 355, U.S. 41 (1957); bottom of page 47, and top of page 48. A most important citation for the instant case.

Therefore, listing the address " - - - where it has its principal place of business "; 28 U.S.C.A. paragraph 1332 (c).

U.S. Department of Health and Human Services
200 Independence Avenue S.W.
Washington, D.C. 20201.

Secretary of Health and Human Services
The White House
1600 Pennsylvania Avenue
Washington, D.C.

Region II. (Regional Office).
New York, New Jersey, Puerto Rico, Virgin Islands
26 Federal Plaza.
N.Y., N.Y. 10007. (212) 264 - 3620.

New Jersey Department of Human Services.
Capital Place One
222 South Warren Street
Trenton
N.J. 08625

The National Institute of Mental Health
5600 Fishers Lane
Rockville
Maryland 20857. (301) 443 - 4513.

The New Jersey Department of Human Services is enacted under New Jersey Statutes Annotated, N.J.S.A. 30:1A - 1, et sequitur.

The Office of Management and Budget (not a Cabinet Post).
The White House
1600 Pennsylvania Avenue
Washington, D.C.

The Secretary of Education (for so-called "in-service" training, etc.).
The White House
1600 Pennsylvania Avenue
Washington, D.C.

Defendant Winans is a resident of Pennsylvania, as Petitioner understands it. Paragraph 1332 (a) (1).

The personal and vicarious liability, excluding collective, as presented in the Complaint; surely has libel amounts exceeding $10,000. Paragraphs 1331 and 1332 (a).

All of the non particularized jurisdiction of the Complaint, page 3a, that is particularized in the Allegation of Jurisdiction is obviously presented to the Courts under 28 U.S.C.A. paragraph 1443 (1) and (2).

Everyone has heard of the libel case of Reynolds vs. Pegler, et al. 54 F. Pr. Dig. - 46. (Modern Federal Practice Digest; 54 - Table of Cases, 1971, Q - Z. On page 146 of the book, "My Life in Court", the auther discusses his selection of Federal Court over the New York State Supreme Court. Quite obviously then, a litigation for libel against members of national syndicates and their affiliates have been presented to Federal Courts;

and in the instant case, all appearances indicate that Federal Jurisdiction is mentioned on almost every page of the Complaint. This Federal jurisdiction should be far in excess of Reynolds vs. Pegler, et al. Generally speaking then, 28 U.S. C.A. Paragraph 1441 (b) can also be applied here.

2. Petitioner brought litigation on a personal and vicarious liability basis only - excluding collective liability. Petitioner did not apply 42 U.S.C.A. 1983, since that would have afforded collective liability benefits of free counsel to the Defendants. Petitioner had, and has no intention of collecting "awards", "penalties", or "deterrants" charged against such future activities from Government Treasuries.

The 1980 Court Rule Book of the United States Supreme Court, on the top of page 18, cites U.S. case law of major importance in Certiorari. Ex Parte Quirin, 317 U.S. 1 (1942) is one such citation.

All the moving papers of this Petitioner in the Courts below stresses U.S. case law in International common law. The courts below ignore all such references to international common law. of U.S. case law.

In Petitioner's Motion to Strike submitted to Newark, N.J. District Court, Ex Parte Quirin, 317 U.S. 1 (1942) is found in Trials of War Criminals; Vol. III (The Justice Case), pages 970 - 971, and Vol. VI (The Flick Case), page 1192.

Together with the consideration of Ex Parte Quirin, we have in juxtaposition, the United States Constitution, Article XIV, Sec. 1 (see page 43a);
N.J.S.A. 59:2-10 and 59:3-14 (see pages 31a & 32a);
28 U.S.C.A. Paragraph 1443 (see page 40a);
28 U.S.C.A. Paragraph 1257 (3) (see page 37a)

Also see, Conflicts Section on pages 19, etc.

3. Petitioner left four (4) large maroon portfolios with the Clerk's Office in Newark, N.J. District Court. They were titled as; PRELIMINARY EXHIBITS. These were the old records for the preponderance of evidence that were prepared in the early 1970's. They were to present to the court, the self-impeaching complaints and the resultant decision making reports officially prepared and filed by the defendants. None of the newer preponderance of evidence was left with the Clerk's Office, but retained for trial. These PRELIMINARY EXHIBITS were not even listed on the Docket Sheet for the courts below to inspect. Again, this principle is very well demonstrated in Conley v. Gibson 355, U.S. 41 (1957); bottom of page 45. The only method of presenting them to the Third C.C.A. was to place them on Motion to Supplement the Record, which was done by Petitioner. Motion was denied as moot.

4. Petitioner left five (5) copies of the Complaint with the Newark, N.J., District Court Clerk. Defendants Hyland, Foye, and Winans copies were without addresses. The Marshall's Office didn't even present a convincing memorandum that any real effort was exerted to deliver them. The Local Court Rule 9 - A for Newark, N.J., District Court states that F.R.C.P. 5(b) applies; " - - - if no address is known, by leaving it with the Clerk of the Court". Petitioner would assume that the Marshall's Office and the Petitioner would have a common interest in delivering the Complaints. One would also assume that it was their duty.

REASONS FOR GRANTING THE WRIT

Argument

The dismissal of the Complaint by the Newark, N.J. District Court and the Third C.C.A. was arbitrary, capricious, and totally unjustifiable in every sense.

POINT 1. The obviously implied, but unexpressed Codes in the Complaint favor the Petitioner, as a matter of law. Page i indicates them as:

28 U.S.C.A. Paragraphs 1332 (a) (1) and (c); 1441 (b); 1443 (1) and (2); and 1446 (c).

POINT 2. U.S. case law of PROPRIA PERSONA from Ex Parte Quirin, 317 U.S. 1 (1942), applies to Petitioner's case, if he understands the matter correctly.

POINT 3. The Complaint itself is an indictment type of Complaint, and sets forth all necessary information as held in the citation; Conley v. Gibson 355 U.S. 41 (1957).

POINT 4. No industrial just cause can possibly be upheld by the Defendants.

All of the moving papers of this Petitioner utilize the expression, decision making, and this decision making was further presented, to a limited extent, with Petitioner's PRELIMINARY EXHIBITS.

This presentation was all in accordance with the required preponderance of evidence.

All of the defendants are demonstrated as industrial fakers in every sense.

Conflicts

Paragraph 2, in New Federal Questions are Presented, back on pages 13 and 14, refer to U.S. case law citations on international common law. These citations apply to personal and vicarious liability, excluding collective liability. The courts below simply ignore this Ex Parte Quirin, etc. We quote the Judgments as removed from the texts in Petitioner's Motion to Strike for Newark, N.J. District Court.

The Justice Case, Vol. III, Case No. 3, bottom of page 969:

> We are empowered to determine the guilt or innocence of persons accused of acts described as "war crimes" and "crimes against humanity" under rules of international law. At this point, in connection with cherished doctrines of national sovereignty, it is important to distinguish between the rules of common international law which are of universal and superior authority on the one hand, and the provisions for enforcement of these rules which are by no means universal on the other. As to the superior authority of international law, we quote:
>
> (Top of page 970) "If there exists a body of international law, which states, from a sense of legal obligation do in fact observe in their relations with each other, and which they are un-

able individually to alter or destroy. that law must necessarily be regarded as the law of each political entity deemed to be a state, and as prevailing throughout places under its control. This is true although there be no local affirmative action indicating the adoption by the individual state of international law.

"International law, as the local law of each state, is necessarily superior to any administrative regulation or statute or public act at variance with it. There can be no conflict on an equal plane".

The above quotation marks are taken directly from the text.

The Krupp Case, Vol. IX, Case No. 10. On page 1448, the Tribunal sets forth the Law As To Individual Responsibility. C.J.S., vol. 19, pages 363 and 364 are quoted.

The Flick Case, Vol. VI, Case No. 5. Page 1192.

But I.M.T. was dealing with officials and agencies of the State, and it is urged that individuals holding no public offices and not representing the State, do not, and should not come within the class of persons criminally responsible for a breach of international law. It is asserted that international law is a matter wholly outside the work, interest, and knowledge of private individuals. The distinction is unsound. International law, as such, binds every citizen just as does ordinary municipal law. Acts adjudged criminal when done by an officer of the government are criminal

also when done by a private individual. The guilt differs only in magnitude, not in quality. The offender in either case is charged with personal wrong and punishment falls on the offender in PROPRIA PERSONA. The application of international law to individuals is no novelty. (See Nuernberg Trial and Aggressive War by Sheldon Glueck, ch. V, pp. 60 - 67, incl., and cases there cited). There is no justification for a limitation of responsibility to public officials.

I.M.T.; Mr. Justice Jackson, in his Opening Statement presents what he calls The Law of Individual Responsibility. This also, should apply in the instant case.

The Newark N.J. District Court Rule, L.C.R. 9-A, states that F.R.C.P. No. 5(b) applies - " - - - if no address is known, by leaving it with the clerk of the court". One would automatically assume that such a Rule could be relied upon. However, the Marshall's Office contented themselves with only visiting Greystone and sending a memorandum to this Petitioner stating that the defendants Winans and Foye no longer worked there, so they were not able to locate them for delivery or service.

This activity does not appear to be the intent of F.R.C.P. No. 5(b); since Petitioner works at Greystone and knows who works there. See pages 16a and 19a, this Brief.

In Conley v. Gibson, 355 U.S. 41 (1957), the bottom of page 47 and the top of page 48, sets forth what requirements are necessary in presenting litigation charges. The courts below completely disagree with this holding. Again, see pages 16a, 17a, and 18a.

Voluminous citations were presented by this Petitioner to the courts below; however, they were simply ignored, relative to probative value, judicial notice, matters of law, etc.

Importance

The charges in the Complaint have been so limited for purposes of clarity and simplicity. There is no need to test in this case delicate questions concerning the criminality per se of judicial and official misconduct, since the accusation and the evidence cut much deeper. The Defendants and the Tribunals below are charged with using their offices and exercising their powers with the knowledge and intent that their official acts would result in intimidations, provocations, assaults, and further depraved and libelous reports against this Petitioner.

We point out, that these Defendants and Jurists are lawyers for the most part who are charged fundamentally with perverting or converting a system of justice into an instrument for committing crimes under State, Federal, and International Common Law. In Petitioner's Motion to Strike, relevant documents of U.S. Case Law, etc. are listed; but

pointedly ignored by the two jurists of Newark, N.J. District Court. It should be first noted that a lawyer has special knowledge of the perverting effect upon the dispensation of Justice not only of his own acts, but of the acts of others of which he has knowledge - knowledge as an ultimate fact. Second, that a lawyer entrusted by his very calling with a sacred duty must of necessity offer strong proof indeed in mitigation of the prostitution of that duty.

We can introduce proof on this issue from which knowledge, as an ultimate fact will arise.

Evidence of acts, including other crimes not only of the Defendants but of others, is permissable and most often offered to show knowledge, intent or design. They are also relevant upon the issue of motive. Because of the nature of the crimes charged in the Complaint, each of the foregoing, knowledge, intent, or design and motive, is an essential ultimate element or ingredient of those crimes. Therefore, the rules which authorize the introduction of such proof are of concern to this Court.

Petitioner offered to the Courts below, voluminous documents of Wigmore, case law, international common law, etc.

The State-owned and operated industries of only New Jersey were presented for the preponderance of evidence in fraudulent decision making. However, the courts below viewed the Complaint (not the preponderance of evidence) as; " - - - the inhabitants of the State of New Jersey have been exploited and the national economy has been endangered". See page 18a. A reading of this indictment type Complaint itself, indicates the importance of this litigation.

A part of the Petitioner's preponderance of evidence, which are four maroon portfolios, titled PRELIMINARY EXHIBITS, were left with the Complaint copies in the Clerk's Office at Newark, N.J. District Court. These were never even entered on the Docket Sheets for the Court's inspection. The Third C.C.A. ruled that there content was only a moot question.

The citation Ex Parte Quirin, 317 U.S. 1 (1942), was presented to the courts below; however,

this citation, as well as international common law citations, were simply ignored. See page 20a.

The responsibility of the U.S. Marshall's Office in presenting an honest effort to locate and serve the defendants, while working together with the Plaintiff in this task, would appear to be the intent of F.R.C.P. 5(b); as claimed by the L.C.R. of Newark District Court. See bottom of page 16a.

Although no oral argument was granted by the courts below, Federal Court jurisdiction, as a matter of law, has been most amply set forth.

In view of the fact that not only are depraved and libelous reports from officials of a national organization about Petitioner, confidently filed as official records, presented to the Court; but also, the looting of public trust funds are presented to the Court, all as a matter of law, and on a personal and vicarious basis only.

Error

It was error for the courts below to dismiss the case for lack of jurisdiction. The national structures and affiliates were well known by the courts below; however, the excuse to dismiss was presented by the address of National Headquarters, affiliates, etc., not being formally entered with the charges.

It was error to assume that there was no diversity of state citizenship.

It was error by the courts below to deny Petitioner's Motion to Strike collective or State liability; page 22a, No. 2.

It was error for the courts below to dismiss the case because of the libel charges against the defendants, and that the amount would not exceed $10,000.

It was error to dismiss the case because of its removal from State courts.

CONCLUSION

Although only an outline of the facts of the matter have been presented to the Court, Petitioner believes that the gravamen of the case has been sufficiently set forth, so that a writ of certiorari shall issue.

Respectfully submitted,

July 5, 1982

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